

# ATTACHMENT 3

1  
2 UNITED STATES DISTRICT COURT  
3 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
4 SAN FRANCISCO DIVISION

5 - - - - -x  
6 SURGICAL INSTRUMENT SERVICE COMPANY, INC.,  
7 Plaintiff,  
8 -against-  
9 INTUITIVE SURGICAL, INC.,  
10 Defendant.  
11 - - - - -x

12 Virtual Zoom Deposition  
13 March 6, 2023  
14 8:30 a.m.

15  
16 VIRTUAL VIDEO DEPOSITION of JEAN SARGENT,  
17 in the above-entitled action, held at the  
18 above time and place, taken before Jeremy  
19 Richman, a Shorthand Reporter and Notary  
20 Public of the State of New York, pursuant to  
21 the Federal Rules of Civil Procedure, and  
22 stipulations between Counsel.

23  
24 \* \* \*  
25

1  
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15 COREY WAINAINA, Videographer

BILL CRADDOCK, Concierge

16 \* \* \*  
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1 J. SARGENT

2 Q. When did you learn that? 08:55:43

3 A. It's been a few years. 08:55:45

4 Q. Do you recall when you first 08:55:53  
5 learned it? 08:55:54

6 A. It might have been summer of 08:55:58  
7 2019. 08:56:04

8 Q. Did you learn it in 08:56:05  
9 connection with your work for 08:56:06  
10 MarinHealth? 08:56:11

11 A. Yes. 08:56:12

12 Q. Prior to your work for 08:56:12  
13 MarinHealth, were you aware that some 08:56:15  
14 EndoWrist instruments had, were listed 08:56:18  
15 with a certain number of uses? 08:56:25

16 MR. VAN HOVEN: Objection to 08:56:28  
17 form. 08:56:29

18 A. I don't recall. 08:56:29

19 Q. Okay. Are you aware, sitting 08:56:34  
20 here today, that FDA has now given 510 08:56:44  
21 clearance to a company to modify one 08:56:48  
22 S -- Si instrument for an additional 11 08:56:50  
23 uses? 08:56:54

24 MR. VAN HOVEN: Objection to 08:56:55  
25 form. 08:56:57

1 J. SARGENT

2 A. No. 08:56:57

3 Q. Let's turn back to DX228. 08:57:03

4 That is your opening report. And if 08:57:09

5 you'd go to paragraph 17. 08:57:18

6 A. Yes. 08:57:36

7 Q. Paragraph 17 says, List of 08:57:36

8 all publications I have authored or 08:57:38

9 co-authored in the past 10 years 08:57:41

10 included in attachment one, do you see 08:57:43

11 that? 08:57:44

12 A. Yes. 08:57:45

13 Q. Have there been any new 08:57:45

14 publications since you submitted this 08:57:47

15 on December 2nd? 08:57:50

16 A. No. 08:57:52

17 Q. So attachment one is a 08:57:55

18 complete list of all the publications 08:57:57

19 you authored or co-authored in the last 08:57:59

20 10 years; is that fair? 08:58:02

21 A. Yes. 08:58:03

22 Q. Paragraph 18 indicates that 08:58:03

23 Haley Guiliano retained you on behalf 08:58:06

24 of SIS; is that right? 08:58:09

25 A. Yes. 08:58:16

1 J. SARGENT

2 Q. Have you ever -- so we were 09:08:07  
3 talking about USC. Have you ever been 09:08:11  
4 involved in the procurement of a robot 09:08:14  
5 for any other hospital besides USC? 09:08:16

6 MR. VAN HOVEN: Objection to 09:08:18  
7 form. 09:08:20

8 A. No. 09:08:20

9 Q. Now, you said that about 09:08:20  
10 5 percent of your time that you're 09:08:25  
11 working on procurement of surgical 09:08:29  
12 instruments for hospitals in the last 09:08:32  
13 six years has been related to cost 09:08:34  
14 savings aspects of the use of the Da 09:08:36  
15 Vinci. Did I remember that correctly? 09:08:38

16 A. Cost savings for -- you said 09:08:42  
17 the Da Vinci, and any other cost 09:08:44  
18 savings initiatives. 09:08:47

19 Q. For the -- I'm just focusing 09:08:49  
20 on the Da Vinci. 09:08:52

21 A. Yes. 09:08:53

22 Q. So when you say any other 09:08:53  
23 cost savings initiatives, are you 09:08:56  
24 talking about with respect to the Da 09:08:58  
25 Vinci? 09:09:01

1 J. SARGENT

2 Q. Did you speak to that person 09:10:56  
3 about the cost aspects of the Da Vinci? 09:10:59

4 A. No. 09:11:02

5 Q. How long did you get to sit 09:11:02  
6 at the console? 09:11:08

7 A. Probably less than 09:11:10  
8 five minutes. 09:11:13

9 Q. And then you got to 09:11:13  
10 manipulate the instruments inside a 09:11:14  
11 dummy? 09:11:16

12 A. Yes. 09:11:16

13 Q. I take it you've never 09:11:16  
14 performed surgery with using a Da Vinci 09:11:21  
15 on an actual human patient? 09:11:23

16 A. Correct. 09:11:25

17 Q. Have you ever gone to nursing 09:11:25  
18 school? 09:11:28

19 A. No. 09:11:29

20 Q. Okay. So other than the 09:11:29  
21 folks from Intuitive you spoke to at 09:11:35  
22 USC and the person you spoke to at the 09:11:38  
23 conference, have you spoke to anyone 09:11:40  
24 else from Intuitive? 09:11:43

25 A. No. 09:11:44

1 J. SARGENT

2 when you were exploring what measures 09:14:53  
3 that USC might be able to take, did you 09:14:55  
4 call Intuitive to talk to them about 09:14:59  
5 what measures might be available? 09:15:00

6 A. I spoke with the rep about 09:15:04  
7 what measures might be available, yes. 09:15:05

8 Q. Okay. What was the substance 09:15:07  
9 of the conversation that you recall, 09:15:09  
10 sitting here today? 09:15:10

11 A. That there are no discounts. 09:15:11

12 Q. Anything else? 09:15:18

13 A. No. 09:15:19

14 Q. What was the name of the rep? 09:15:19

15 A. I have no idea. 09:15:21

16 Q. And that was in the 2010 to 09:15:25  
17 2011 time period? 09:15:27

18 A. Yes. 09:15:28

19 Q. When you were part of the 09:15:29  
20 discussion at Piedmont about potential 09:15:33  
21 measures around cost savings for the 09:15:35  
22 use of the Da Vinci, did you call 09:15:39  
23 Intuitive to find out if anything had 09:15:43  
24 changed since 2010, 2011? 09:15:45

25 A. I did not. 09:15:47



1 J. SARGENT

2 right? 09:25:40

3 A. Correct. 09:25:40

4 Q. So you have not reviewed that 09:25:41

5 deposition? 09:25:42

6 A. Correct. 09:25:44

7 Q. Okay. You have not -- at the 09:25:45

8 time you submitted this report, you had 09:25:48

9 not reviewed any of the depositions of 09:25:51

10 Intuitive witnesses; is that right? 09:25:53

11 A. Correct. 09:25:55

12 Q. At the time you submitted 09:25:55

13 this report, you had not reviewed the 09:25:58

14 depositions of any third parties whose 09:26:00

15 depositions were taken in this matter; 09:26:03

16 is that right? 09:26:05

17 A. Correct. 09:26:05

18 Q. Have you ever heard of a 09:26:06

19 company called Rebotix Repair, 09:26:09

20 R-E-B-O-T-I-X? 09:26:13

21 A. No. 09:26:16

22 Q. Have you ever heard of a 09:26:18

23 company called Restore Robotics, 09:26:19

24 R-E-S-T-O-R-E? 09:26:27

25 A. I have heard the name, but 09:26:28

1 J. SARGENT

2 A. And that's the same with 09:28:20  
3 other instruments that we have that are 09:28:22  
4 repaired or refurbished that the 09:28:25  
5 physicians use. 09:28:27

6 Q. What other instruments are 09:28:29  
7 you thinking of in that last part of 09:28:31  
8 your answer? 09:28:34

9 A. It would be items such as 09:28:34  
10 scopes that go out for repair and 09:28:38  
11 refurbishment, that are returned back 09:28:41  
12 to the facility for use where they've 09:28:44  
13 been checked, quality checked, and the 09:28:47  
14 physicians use those types of scopes 09:28:50  
15 many, many, many times. 09:28:53

16 Q. In this report, in your two 09:28:54  
17 reports in this matter, you did not 09:29:03  
18 define the word "repair;" isn't that 09:29:04  
19 correct? 09:29:09

20 A. Correct. 09:29:09

21 Q. Do you have a definition of 09:29:10  
22 "repair" when it comes to a surgical 09:29:13  
23 instrument? 09:29:15

24 A. No, I do not. That is my 09:29:16  
25 expertise. 09:29:18

1 J. SARGENT

2 Q. You used the word 09:29:18

3 "refurbishment" in an earlier answer 09:29:19

4 just now; is that right? 09:29:22

5 A. Yes, I did. 09:29:23

6 Q. And you did not define 09:29:24

7 "refurbishment" in either of your 09:29:27

8 reports in this matter, correct? 09:29:28

9 A. Correct. 09:29:29

10 Q. Do you have a definition of 09:29:30

11 the term "refurbishment" when it comes 09:29:33

12 to a surgical instrument? 09:29:36

13 A. No, I do not. 09:29:38

14 Q. Have you ever heard the term 09:29:39

15 "remanufacturing"? 09:29:40

16 A. Yes. 09:29:43

17 Q. You did not define that term 09:29:43

18 in either of your expert reports; is 09:29:47

19 that right? 09:29:49

20 A. Correct. 09:29:51

21 Q. Do you have a definition of 09:29:52

22 the word "remanufacturing" when it 09:29:57

23 comes to surgical instruments? 09:29:58

24 A. No. 09:30:01

25 Q. Okay. Do you agree with me 09:30:01

1 J. SARGENT

2 A. No. 09:49:41

3 Q. Why not? 09:49:44

4 A. I don't understand the 09:49:46  
5 question. 09:49:52

6 Q. Okay. You said that your 09:49:53  
7 opinions in this case assume that SIS 09:49:58  
8 does not require premarketing clearance 09:50:01  
9 from the FDA in order to modify 09:50:03  
10 EndoWrists to reset the usage counter. 09:50:05  
11 Do you remember saying that? 09:50:08

12 MR. VAN HOVEN: Objection to 09:50:09  
13 form. 09:50:11

14 A. Yes. 09:50:11

15 Q. So if that assumption turns 09:50:12  
16 out to be wrong and SIS does, in fact, 09:50:14  
17 require clearance from the FDA before 09:50:19  
18 they can modify EndoWrists to reset the 09:50:22  
19 usage counter, your opinions in this 09:50:25  
20 matter would change, correct? 09:50:27

21 MR. VAN HOVEN: Objection to 09:50:30  
22 form. 09:50:30

23 A. No. 09:50:33

24 Q. Why not? 09:50:35

25 A. Because the, whatever the 09:50:38

1 J. SARGENT

2 requirements are, the assumption from 09:50:44  
3 the supply chain perspective is that 09:50:49  
4 the manufacturers or remanufacturers or 09:50:53  
5 refurbishers, whatever they might be, 09:51:00  
6 follow the guidelines they are required 09:51:03  
7 to follow. 09:51:05

8 Q. At the hospitals you've 09:51:05  
9 worked with, do the hospitals you have 09:51:08  
10 worked with or consulted with use 09:51:12  
11 instruments that require FDA clearance, 09:51:16  
12 but do not have FDA clearance? 09:51:21

13 MR. VAN HOVEN: Objection to 09:51:23  
14 form. 09:51:26

15 A. No. 09:51:26

16 Q. At the hospitals you've 09:51:27  
17 worked with or consulted with, have 09:51:31  
18 they had policies against the use of 09:51:34  
19 instruments that require -- that do not 09:51:37  
20 have FDA clearance, that require 09:51:41  
21 clearance? 09:51:43

22 MR. VAN HOVEN: Objection to 09:51:44  
23 form. 09:51:45

24 A. No. 09:51:45

25 Q. Do you know whether SIS ever 09:51:46

1 J. SARGENT

2 had premarketing clearance from FDA to 09:51:53

3 modify EndoWrists to reset the usage 09:51:58

4 counter? 09:52:00

5 MR. VAN HOVEN: Objection to 09:52:02

6 form. 09:52:02

7 A. No. 09:52:02

8 Q. I want you to assume that SIS 09:52:02

9 has never received 510(k) clearance 09:52:09

10 from the FDA to modify EndoWrist, can 09:52:15

11 you assume that for me? 09:52:18

12 A. Yes. 09:52:23

13 Q. If that's the case, am I 09:52:25

14 right that there would be Vizient 09:52:27

15 hospitals that would not use those 09:52:30

16 EndoWrists without SIS getting FDA 09:52:33

17 clearance? 09:52:36

18 MR. VAN HOVEN: Objection to 09:52:36

19 form. 09:52:36

20 A. It's difficult to answer that 09:52:36

21 yes or no. 09:52:49

22 Q. Why? 09:52:50

23 A. Because in a hospital 09:52:51

24 setting, there are many products that 09:52:52

25 are intended to be used in a certain 09:52:54

1 J. SARGENT

2 matter, such as spine glue, that is not 09:53:01  
3 intended to be used for spine, but 09:53:04  
4 intended to be used in other matters, 09:53:06  
5 but spine surgeons still use it. 09:53:10

6 Q. Sorry, in that example, are 09:53:16  
7 you talking about off-label use? 09:53:19

8 A. Yes. 09:53:22

9 Q. Okay. I want you to assume 09:53:22  
10 two things; one, that in order to 09:53:24  
11 market to hospitals the ability to 09:53:29  
12 modify EndoWrists to reset the usage 09:53:31  
13 counter requires marketing clearance, 09:53:35  
14 premarketing clearance; and that SIS 09:53:38  
15 has never had such clearance. Can you 09:53:40  
16 assume that for me? 09:53:43

17 A. Yes. 09:53:45

18 Q. In that situation where SIS 09:53:47  
19 must have 510(k) clearance, but does 09:53:52  
20 not, do you agree with me that there 09:53:57  
21 would be Vizient hospitals that would 09:53:59  
22 not agree to use SIS's service? 09:54:01

23 A. Yes. 09:54:09

24 Q. I want you to make -- forget 09:54:09  
25 about those assumptions, I have a 09:54:30

1 J. SARGENT

2 with respect to EndoWrists? 10:10:42

3 MR. VAN HOVEN: Objection to 10:10:44

4 form. 10:10:45

5 A. I do not know. 10:10:45

6 Q. Have you ever been employed 10:10:49

7 by a medical device manufacturing 10:11:06

8 company? 10:11:08

9 A. No. 10:11:11

10 Q. Have you ever been employed 10:11:11

11 by a company that reprocesses, repairs 10:11:14

12 or refurbishes medical devices? 10:11:17

13 A. No. 10:11:21

14 Q. Have you ever been employed 10:11:22

15 by a company that remanufactures 10:11:24

16 medical devices? 10:11:32

17 A. No. 10:11:33

18 Q. Have you ever been involved 10:11:33

19 in the development, marketing or 10:11:34

20 promotion of a medical device? 10:11:36

21 A. No. 10:11:43

22 Q. Have you ever been involved 10:11:43

23 in the development, marketing or 10:11:45

24 promotion of any product regulated by 10:11:47

25 the FDA? 10:11:50



1 J. SARGENT

2 A. No. 10:11:53

3 Q. You do not consider yourself 10:11:54

4 an expert in Intuitive Da Vinci's 10:11:57

5 robots or EndoWrists; is that right? 10:12:00

6 A. Correct. 10:12:02

7 Q. You do not consider yourself 10:12:05

8 an expert in any medical device; is 10:12:07

9 that right? 10:12:09

10 A. Correct. 10:12:09

11 Q. You do not consider yourself 10:12:12

12 an expert in any medical device repair? 10:12:14

13 MR. VAN HOVEN: Objection to 10:12:19

14 form. 10:12:22

15 A. I do not consider myself an 10:12:22

16 expert. However, I have been to the 10:12:25

17 facilities that perform those 10:12:27

18 functions, and seen for myself the 10:12:29

19 detail that goes into the 10:12:33

20 refurbishment, repair of products that 10:12:37

21 are sent to them. 10:12:41

22 Q. Earlier I asked you if you 10:12:42

23 had a definition of "repair." You said 10:12:45

24 you did not. What did you take me to 10:12:47

25 mean when I asked you if you're an 10:12:49

1 J. SARGENT

2 expert in medical device repair? 10:12:51

3 MR. VAN HOVEN: Objection to 10:13:01

4 form. 10:13:02

5 A. If I'm an expert in medical 10:13:02

6 device repair. 10:13:06

7 Q. What did you take me to mean 10:13:07

8 when I used the word "repair" in that 10:13:09

9 sentence? 10:13:11

10 A. I don't -- anything medical 10:13:14

11 device related I don't have expertise 10:13:16

12 in, so. 10:13:18

13 Q. You had never worked at FDA, 10:13:19

14 correct? 10:13:28

15 A. Correct. I worked closely 10:13:28

16 with the FDA on several different 10:13:30

17 projects. 10:13:32

18 Q. Have you ever worked with 10:13:32

19 anyone at the FDA on projects relating 10:13:34

20 to EndoWrists? 10:13:37

21 A. No. 10:13:41

22 Q. Have you worked with anyone 10:13:41

23 at FDA on projects relating to the Da 10:13:43

24 Vinci surgical systems? 10:13:46

25 A. No. 10:13:49

1 J. SARGENT

2 matter expert for the Duke proceedings. 10:16:20

3 Q. You were retained by Duke to 10:16:29

4 be an expert in that matter, correct? 10:16:31

5 A. Yes. 10:16:32

6 Q. And as I understand that 10:16:33

7 matter, you did not testify in court at 10:16:35

8 trial, am I right about that? 10:16:37

9 A. Correct. 10:16:39

10 Q. So was there -- do you know 10:16:40

11 whether the court was asked to rule on 10:16:43

12 whether you were, in fact, qualified as 10:16:47

13 an expert under the court rules? 10:16:50

14 A. No, I do not. 10:16:51

15 Q. Other than the Duke matter, 10:16:52

16 has any -- putting aside the Duke 10:16:56

17 matter, have you ever been qualified by 10:17:00

18 a court to testify as an expert? 10:17:02

19 A. No. 10:17:05

20 Q. Am I right that you are not 10:17:05

21 qualified to opine on whether any given 10:17:09

22 activity constitutes repair under FDA 10:17:12

23 regulations? 10:17:16

24 A. Correct. 10:17:17

25 Q. Am I also right that you are 10:17:19

1 J. SARGENT

2 not qualified to opine on whether an 10:17:22

3 activity constitutes remanufacturing 10:17:24

4 under FDA regulations? 10:17:26

5 A. Correct. 10:17:33

6 Q. You are not offering any 10:17:33

7 opinions in this matter as to whether 10:17:34

8 any part of SIS's business related to 10:17:37

9 EndoWrists is subject to FDA 10:17:40

10 regulations; is that right? 10:17:42

11 A. I'm sorry, repeat the 10:17:45

12 question. 10:17:46

13 Q. Sure, no problem. You are 10:17:47

14 not offering any opinions in this 10:17:48

15 matter as to whether any part of SIS's 10:17:51

16 business relating to EndoWrists is 10:17:53

17 subject to FDA regulations; is that 10:17:58

18 right? 10:18:00

19 A. I'm sorry, I don't really 10:18:05

20 understand. 10:18:09

21 Q. No problem. In this matter, 10:18:10

22 are you offering an opinion that SIS's 10:18:17

23 business relating to EndoWrist is 10:18:21

24 subject to or not subject to FDA 10:18:25

25 regulations? 10:18:28

1 J. SARGENT

2 A. No. 10:18:32

3 Q. Have you ever published a 10:18:32

4 peer-reviewed publication about 10:18:37

5 EndoWrists? 10:18:39

6 A. No. 10:18:43

7 Q. Have you ever done any 10:18:43

8 academic research on EndoWrist 10:18:45

9 instruments? 10:18:47

10 A. No. 10:18:49

11 Q. Have you done any research at 10:18:50

12 all on EndoWrist instruments? 10:18:52

13 MR. VAN HOVEN: Objection to 10:18:56

14 form. 10:18:56

15 A. Outside of today's 10:18:56

16 proceedings, no. 10:19:02

17 Q. Can you turn to paragraphs 22 10:19:03

18 and 23 of your opening report. 10:19:08

19 A. Okay. 10:19:16

20 Q. Do you see that's a section 10:19:20

21 entitled "Summary of Opinions"? 10:19:23

22 A. Yes. 10:19:26

23 Q. And those are the opinions 10:19:26

24 that you intend to give at trial if SIS 10:19:29

25 calls you as a witness; is that right? 10:19:32

1 J. SARGENT

2 A. Yes. 10:19:34

3 Q. And none of the opinions in 10:19:36

4 this paragraph 22 and 23 talk about 10:19:39

5 collection rates or penetration rates 10:19:41

6 of EndoWrists that have been modified 10:19:43

7 to reset the usage counter; is that 10:19:47

8 right? 10:19:49

9 MR. VAN HOVEN: Objection to 10:19:50

10 form. 10:19:51

11 A. Correct. 10:19:51

12 Q. Are those not opinions that 10:19:55

13 you hold in this matter? 10:19:57

14 A. My opinion is that for cost 10:19:58

15 savings measures, that many, if not 10:20:18

16 all, hospitals would welcome the 10:20:21

17 opportunity for cost savings using the 10:20:23

18 Da Vinci robot. 10:20:26

19 Q. You talk only in here about 10:20:30

20 Vizient member hospitals, though, 10:20:41

21 correct? 10:20:42

22 A. Correct. 10:20:42

23 Q. Now, in paragraph 22, you 10:20:43

24 say, Except in rare circumstances, 10:20:48

25 hospitals do not consider whether FDA 10:20:52

1 J. SARGENT

2 A. I don't know the specific 10:23:29  
3 requirements that any manufacturer has 10:23:32  
4 to meet. 10:23:34

5 Q. When you use the phrase 10:23:35  
6 "servicing and repair services of 10:23:54  
7 instruments" there, is it simply the 10:23:57  
8 fact that a hospital sends the 10:23:59  
9 instruments out to a third party that 10:24:00  
10 make it, that they are providing 10:24:04  
11 servicing and repair services? 10:24:06

12 MR. VAN HOVEN: Objection to 10:24:08  
13 form. 10:24:09

14 A. Yes. 10:24:09

15 Q. Okay. So in this matter, 10:24:11  
16 your opinions, it doesn't matter to you 10:24:17  
17 whether, exactly what it is that the 10:24:19  
18 third parties are doing to the 10:24:22  
19 instruments that are owned by the 10:24:23  
20 hospital; is that right? 10:24:25

21 A. My assumption is that they 10:24:31  
22 are doing what they're supposed to be 10:24:32  
23 doing to refurbish, remanufacture, 10:24:35  
24 repair that product. 10:24:38

25 Q. Now, if you learned that a 10:24:39

1 J. SARGENT

2 A. I do know that the companies 10:27:23  
3 that perform these services go to 10:27:29  
4 extensive lengths to quality check 10:27:32  
5 every product before it's returned back 10:27:35  
6 to the hospitals, which is different 10:27:37  
7 from a manufacturer quality checks 10:27:39  
8 maybe 1 to 2 percent of the products 10:27:45  
9 that are being shipped. But these 10:27:48  
10 companies check every product 10:27:50  
11 100 percent. 10:27:52

12 Q. I'm only focusing on 10:27:53  
13 EndoWrists at the moment, okay? I 10:27:56  
14 think earlier you said the only company 10:27:58  
15 you're aware of that was doing any 10:27:59  
16 modifications to EndoWrists to extend 10:28:01  
17 their lives was SIS; is that right? 10:28:05

18 A. That I am aware of, yes. 10:28:07

19 Q. So you had no experience with 10:28:09  
20 any other company as to what they might 10:28:11  
21 do when they are modifying the 10:28:13  
22 EndoWrist; is that right? 10:28:16

23 A. Correct. 10:28:26

24 Q. Now, how did you first learn 10:28:26  
25 -- how did you first learn of SIS? 10:28:31



1 J. SARGENT

2 Q. And then if you turn to the 10:36:41  
3 third page, the next email in time is 10:36:45  
4 from you. You'll see at the bottom of 10:36:48  
5 the third page is an email from you 10:36:52  
6 dated September 25, 2019, to John Ayers 10:36:54  
7 and Keith Johnson. Do you see that? 10:36:59

8 A. Yes. 10:37:01

9 Q. What you're doing here is 10:37:02  
10 you're forwarding to Mr. Ayers the 10:37:03  
11 email and attachment that Mr. Johnson 10:37:07  
12 had sent you about the new robotic 10:37:10  
13 program; is that right? 10:37:12

14 A. Yes. 10:37:15

15 Q. And was Mr. Ayers someone you 10:37:16  
16 were working with at Marin at this 10:37:18  
17 time? 10:37:25

18 A. Mr. Ayers was the manager of 10:37:25  
19 sterile processing. 10:37:35

20 Q. And you see in your email you 10:37:35  
21 reference a discussion you had with 10:37:37  
22 Mr. Ayers about this program, do you 10:37:39  
23 see that? Do you see it says, John, 10:37:42  
24 attached are the products and 10:37:54  
25 attachments we discussed? 10:37:58

1 J. SARGENT

2 A. Yes. 10:37:59

3 Q. Do you recall discussing 10:38:00

4 anything with Mr. Ayers about the 10:38:01

5 program? 10:38:04

6 A. I connected Mr. Ayers and 10:38:05

7 Mr. Johnson to speak about specifics. 10:38:09

8 Q. So you don't recall any of 10:38:11

9 the discussions you had with Mr. Ayers 10:38:13

10 before you sent this to email to him? 10:38:17

11 A. No. 10:38:20

12 Q. And if you go to the next 10:38:20

13 email, it's from Mr. Ayers to Mr. 10:38:22

14 Johnson and Keith [sic] Blemis and 10:38:26

15 Michael Geremia, do you see that? 10:38:35

16 A. Yes. 10:38:38

17 Q. And I'll note you are not on 10:38:39

18 that email, do you see that? 10:38:41

19 A. Yes. 10:38:42

20 Q. Who were, at this time, Ken 10:38:42

21 Blemis and Michael Geremia? 10:38:50

22 A. Ken Blemis was the director 10:38:52

23 of supply chain, and I do not recall 10:38:54

24 who Mr. Geremia was. 10:38:59

25 Q. And Mr. Ayers writes, Hey, 10:39:04

1 J. SARGENT

2 specific to that. 11:08:16

3 Q. What have you done, if 11:08:17

4 anything, to determine whether 11:08:18

5 extending the use of an EndoWrist 11:08:20

6 impacts patient safety? 11:08:21

7 A. My review of the SIS 11:08:26

8 documents that indicates their quality 11:08:29

9 control to ensure that product is as it 11:08:33

10 was originally intended, functions as 11:08:38

11 originally intended. 11:08:41

12 Q. Anything else that you've 11:08:42

13 done to determine whether extending the 11:08:45

14 use of an EndoWrist impacts the patient 11:08:47

15 safety? 11:08:50

16 A. No. 11:08:52

17 Q. Are you an engineer? 11:08:52

18 A. No, I'm not. 11:08:54

19 Q. You know, earlier you said 11:08:55

20 that it's your understanding from SIS's 11:08:59

21 documents that they, the process they 11:09:02

22 used to modify the EndoWrists is they 11:09:05

23 replaced the chip; is that correct? 11:09:07

24 A. Yes. 11:09:09

25 Q. What's your understanding of 11:09:12

1 J. SARGENT

2 the exact steps in which that 11:09:14

3 replacement occurs? 11:09:15

4 A. I don't know the exact steps. 11:09:17

5 Q. Okay. Do you know that one 11:09:20

6 of the steps is to actually open up an 11:09:22

7 EndoWrist? 11:09:26

8 A. I don't know. 11:09:30

9 Q. Where does the chip that you 11:09:31

10 say gets replaced live on the 11:09:36

11 EndoWrist? 11:09:38

12 MR. VAN HOVEN: Objection to 11:09:39

13 form. 11:09:40

14 A. I'm not aware. 11:09:40

15 Q. And I want you to assume it's 11:09:44

16 on the inside of the EndoWrist with me, 11:09:49

17 and that they, in fact, have to open up 11:09:51

18 the EndoWrist, can you assume that? 11:09:55

19 A. Yes. 11:09:59

20 Q. And does the fact that 11:09:59

21 they're opening up the EndoWrist change 11:10:02

22 any of your opinions in this matter? 11:10:03

23 A. No. 11:10:06

24 Q. And do you know what they do 11:10:07

25 to actually, how they actually go about 11:10:09

1	J. SARGENT	
2	replacing the chip?	11:10:13
3	A. No.	11:10:16
4	Q. Do you know how they remove	11:10:16
5	the chip?	11:10:18
6	A. No.	11:10:20
7	Q. Do you know how, what they do	11:10:20
8	with the chip after they remove it?	11:10:22
9	A. No.	11:10:25
10	Q. Do you know how they attach	11:10:25
11	the new chip to the EndoWrist?	11:10:28
12	A. No.	11:10:31
13	Q. Do you know if it's the same	11:10:31
14	place as the old chip?	11:10:34
15	A. No.	11:10:37
16	Q. Do you know how they close it	11:10:39
17	back up once they've opened it?	11:10:41
18	A. No.	11:10:43
19	Q. Do you know what testing that	11:10:45
20	they perform to ensure that the	11:10:47
21	EndoWrist performs in the same way as	11:10:53
22	it did in the first uses?	11:10:58
23	MR. VAN HOVEN: Objection to	11:10:59
24	form.	11:10:59
25	A. What I've read in -- only	11:10:59

1 J. SARGENT

2 what I've read in the SIS 11:11:02

3 documentation. 11:11:03

4 Q. Okay. And what do you 11:11:03

5 recall, if anything, specifically about 11:11:05

6 the testing they performed? 11:11:07

7 A. I don't recall anything 11:11:09

8 specific. 11:11:10

9 Q. Okay. Do you know what 11:11:10

10 instruments they used to test the 11:11:13

11 EndoWrist, if any? 11:11:15

12 A. No. 11:11:16

13 Q. Do you know whether they 11:11:16

14 subjected EndoWrist to reprocessing? 11:11:20

15 A. No. 11:11:24

16 Q. Okay. Do you know, besides 11:11:24

17 when Marin -- let's talk about Marin, 11:11:28

18 since that was the program that you 11:11:33

19 were involved in. When Marin sent its 11:11:34

20 EndoWrist to SIS, do you know what SIS 11:11:37

21 did, if anything, besides modifying it 11:11:41

22 for the usage counter? 11:11:46

23 A. No, I don't. 11:11:47

24 Q. Have you ever actually seen 11:11:48

25 an EndoWrist? 11:11:49

1 J. SARGENT

2 Q. Do you know whether, in this 11:17:51  
3 case, SIS was taking the EndoWrist back 11:17:56  
4 to original specifications when it 11:18:02  
5 modified the usage counter to add 11:18:04  
6 additional uses? 11:18:08

7 MR. VAN HOVEN: Objection to 11:18:10  
8 form. 11:18:11

9 A. I was told that that is what 11:18:11  
10 they did, it was taken back to the 11:18:15  
11 original specifications. 11:18:18

12 Q. Who told you that? 11:18:18

13 A. Keith Johnson. 11:18:20

14 Q. Did you investigate -- do 11:18:22  
15 anything to investigate whether that 11:18:25  
16 statement he made to you was true? 11:18:28

17 A. No, as I would not question 11:18:29  
18 any other third party that would be 11:18:33  
19 refurbishing a product. 11:18:36

20 Q. Did he tell you that in the 11:18:39  
21 course of this case, or did he tell 11:18:41  
22 that to you when you were working with 11:18:43  
23 MarinHealth? 11:18:45

24 A. I heard it back when I was 11:18:46  
25 working with MarinHealth. 11:18:48

1 J. SARGENT

2 Q. And so you just accepted it 11:18:50  
3 at face value? 11:18:51

4 A. Yes. 11:18:52

5 Q. Did you ask Mr. Johnson at 11:18:53  
6 that time whether SIS even had the 11:18:56  
7 specifications for the products? 11:19:00

8 MR. VAN HOVEN: Objection to 11:19:02  
9 form. 11:19:03

10 A. No. 11:19:03

11 Q. Do you know whether SIS had 11:19:04  
12 the specifications for the EndoWrist? 11:19:08

13 MR. VAN HOVEN: Objection to 11:19:10  
14 form. 11:19:12

15 A. No. 11:19:12

16 Q. I'm looking back at the 11:19:12  
17 letter, the next sentence. The one 11:19:19  
18 after the one I just read says, By 11:19:21  
19 using a third-party remanufacturer or 11:19:23  
20 refurbisher, the hospital has no way to 11:19:27  
21 know whether the refurbished instrument 11:19:30  
22 meets the rigorous specifications as 11:19:32  
23 established by Intuitive Surgical and 11:19:34  
24 cleared by the FDA or other regulators. 11:19:41

25 Do you see that? 11:19:44



1 J. SARGENT

2 A. Never. 11:59:58

3 Q. Did you tell MarinHealth, You 11:59:59

4 know, you should find out from 12:00:01

5 Intuitive why it is these instruments 12:00:04

6 are only used -- only listed with ten 12:00:06

7 uses? 12:00:11

8 MR. VAN HOVEN: Objection to 12:00:12

9 form. 12:00:17

10 A. My experience indicates that 12:00:17

11 that is what's been approved through 12:00:20

12 the FDA, so I wouldn't question it. 12:00:22

13 Q. So did you tell Marin, You 12:00:26

14 know, you should not -- when SIS came 12:00:29

15 to you, did you tell Marin, you know, 12:00:31

16 you should not do this, because what's 12:00:33

17 been approved through the FDA is ten 12:00:35

18 uses, and these guys are offering to do 12:00:36

19 it for more than that, did you tell 12:00:38

20 Marin that? 12:00:42

21 MR. VAN HOVEN: Objection to 12:00:43

22 form. 12:00:53

23 THE WITNESS: Josh? 12:00:53

24 MR. VAN HOVEN: I just said 12:00:53

25 objection to form, Jean. 12:00:55

1 J. SARGENT

2 this document in paragraph 48 of your 13:23:54

3 opening report, correct? 13:23:57

4 (Exhibit 239, marked for 13:23:59

5 identification, Bates stamped 13:23:59

6 SIS047433.) 13:24:06

7 A. Yes. 13:24:06

8 Q. This is a document cited in 13:24:06

9 footnote 9, correct? 13:24:07

10 A. Yes. 13:24:08

11 Q. And the purpose of this 13:24:09

12 amendment is to add the service option 13:24:13

13 to the overall Vizient SIS agreement 13:24:20

14 for EndoWrist services, correct? 13:24:23

15 A. Yes. 13:24:27

16 Q. And this provides the price 13:24:32

17 that any Vizient member hospital that 13:24:34

18 wants to take advantage of this service 13:24:36

19 would pay for a particular servicing of 13:24:39

20 particular EndoWrist instruments; is 13:24:42

21 that fair to say? 13:24:44

22 A. Yes. 13:24:48

23 Q. And nothing in this amendment 13:24:49

24 requires any individual Vizient member 13:24:53

25 to actually purchase the services 13:24:56

1 J. SARGENT

2 offered by SIS with respect to the 13:24:59

3 EndoWrists; is that fair to say? 13:25:01

4 A. Yes. 13:25:04

5 Q. And so any hospital -- so a 13:25:16

6 hospital would have the ability to make 13:25:21

7 its own decision as to whether to use 13:25:24

8 the service that was being provided 13:25:26

9 with respect to EndoWrist, correct? 13:25:27

10 A. Yes, it would. As I 13:25:30

11 mentioned earlier, the cost of using 13:25:32

12 the Da Vinci products is very, very 13:25:36

13 expensive. And so seeing that this is 13:25:38

14 coming from Vizient, I'm sure that many 13:25:41

15 members are going to want to access the 13:25:44

16 ability to use the SIS repair, 13:25:48

17 refurbishment product. 13:25:56

18 Q. How many Vizient members did 13:25:58

19 you talk to since November to find out 13:25:59

20 if they would be interested in using 13:26:03

21 this service? 13:26:05

22 A. I haven't talked to any. 13:26:10

23 Q. Now, if you look to your 13:26:12

24 report again, paragraph 53, paragraph 13:26:19

25 53 says, are you there with me? 13:26:30

1 J. SARGENT

2 form. 13:38:44

3 A. My assumption is that would 13:38:44

4 be the start. 13:38:45

5 Q. Did you make an assumption as 13:38:46

6 to when, as to whether there would be a 13:38:49

7 time when X and Xi EndoWrists would be 13:38:52

8 serviced by SIS? 13:38:57

9 A. No. 13:39:02

10 Q. Okay. So the numbers that 13:39:02

11 you've included in your report around 13:39:08

12 the collection rate and the penetration 13:39:11

13 rates, none of those assume that those 13:39:12

14 are X or Xi instruments; is that fair? 13:39:16

15 MR. VAN HOVEN: Objection to 13:39:20

16 form. 13:39:21

17 A. It's not specific to Si or X. 13:39:21

18 Q. So I'm just trying to 13:39:27

19 understand, the numbers that you -- the 13:39:33

20 collection rate and the penetration 13:39:37

21 rates that you've identified, I'm 13:39:40

22 trying to understand that any of the 13:39:42

23 EndoWrists that you're claiming would 13:39:44

24 have been part of that program would 13:39:46

25 have been X and Xi instruments? 13:39:48

1 J. SARGENT

2 MR. VAN HOVEN: Objection to 13:39:50

3 form. 13:39:50

4 A. I would say eventually, yes. 13:39:50

5 Q. When? 13:39:55

6 A. Whenever SIS had approval to 13:39:55

7 do so. 13:40:02

8 Q. Approval from who? 13:40:02

9 A. Whomever they need to get 13:40:04

10 approval from. 13:40:09

11 Q. Who do they need approval 13:40:10

12 from? 13:40:12

13 A. I'm not sure. I'm not a 13:40:12

14 manufacturer. 13:40:13

15 Q. Well, let me ask this 13:40:14

16 question. You identify the penetration 13:40:15

17 rate of Vizient members for EndoWrists 13:40:19

18 that have been reset by SIS as 13:40:24

19 30 percent by the end of the first 13:40:27

20 year. Remember that? 13:40:28

21 A. Yes. 13:40:31

22 Q. Did you assume that in the 13:40:31

23 first year, by the end of the first 13:40:34

24 year there would be X and Xi EndoWrists 13:40:36

25 collected and serviced by SIS? 13:40:42

1 J. SARGENT

2 Q. Okay. 13:45:18

3 A. Intuitive. 13:45:20

4 Q. So when you were working with 13:45:21

5 Marin, did SIS actually provide 13:45:24

6 collection bins for, at MarinHealth? 13:45:26

7 A. I was told, yes. 13:45:32

8 Q. Did you ever see them? 13:45:33

9 A. No. 13:45:35

10 Q. Do you know how many 13:45:35

11 EndoWrists were collected from Marin? 13:45:41

12 A. I was told at the time, I 13:45:46

13 don't remember the exact number, but I 13:45:48

14 believe it was less than 20. 13:45:49

15 Q. Do you know how many 13:45:51

16 EndoWrists from Marin were actually 13:45:54

17 reset with additional uses? 13:45:57

18 A. No. 13:45:59

19 Q. Do you know how many at the 13:46:02

20 time that there were -- that you were 13:46:05

21 told there were collection bins 13:46:07

22 available for EndoWrists to be 13:46:09

23 collected by SIS, do you know how many 13:46:11

24 EndoWrists MarinHealth had in 13:46:13

25 inventory? 13:46:17

1 J. SARGENT

2 cost savings opportunities, that they 13:55:19

3 would sign on for this program. 13:55:22

4 Q. Okay. So I understand that 13:55:25

5 you're referring to the 40 percent cost 13:55:29

6 savings that Mr. Johnson told you 13:55:33

7 about, right? 13:55:37

8 A. Yes. 13:55:38

9 Q. So I understand that to you, 13:55:41

10 from your perspective, that means that 13:55:45

11 Vizient hospitals are going to be very 13:55:47

12 interested in this program; isn't that 13:55:50

13 right? 13:55:52

14 A. Yes. 13:55:54

15 Q. Okay. And so I'm trying to 13:55:54

16 understand what methodology you used to 13:55:57

17 arrive at the 75 percent number of the 13:55:59

18 collection of EndoWrists from Vizient 13:56:02

19 hospitals? 13:56:06

20 A. That's based on my experience 13:56:06

21 and talking with my colleagues and my 13:56:15

22 peers in regards to what kind of 13:56:17

23 opportunities they come up with for 13:56:19

24 cost savings initiatives. 13:56:21

25 Q. And the 75 percent, is that 13:56:24

1 J. SARGENT

2 75 percent of all Vizient member 13:56:29

3 hospitals with an -- Si robots would 13:56:32

4 participate in this program? 13:56:37

5 MR. VAN HOVEN: Objection to 13:56:38

6 form. 13:56:42

7 A. Yes. 13:56:42

8 Q. So you're not offering any 13:56:43

9 opinion as to how many actual 13:56:44

10 EndoWrists would be collected pursuant 13:56:49

11 to this program from Vizient members; 13:56:50

12 is that right? 13:56:53

13 MR. VAN HOVEN: Objection to 13:56:53

14 form. 13:56:55

15 A. Correct. 13:56:55

16 Q. And am I right, you are not 13:56:55

17 offering any opinions about the 13:56:57

18 collection or penetration rates of 13:57:00

19 non-Vizient member hospitals, correct? 13:57:03

20 A. Correct. 13:57:06

21 Q. Mr. Johnson did not tell you 13:57:07

22 anything about the collection rate that 13:57:13

23 SIS expected; is that right? 13:57:16

24 A. No, not that I recall. 13:57:21

25 Q. What analysis did you do to 13:57:22



1 J. SARGENT

2 arrive at the 75 percent number you 13:57:26  
3 list in your report, as opposed to any 13:57:28  
4 other number that you could have put 13:57:30  
5 there? 13:57:34

6 MR. VAN HOVEN: Objection to 13:57:34  
7 form. 13:57:35

8 A. Based on my experience, in 13:57:35  
9 the reprocessing of products to reduce 13:57:40  
10 costs, most hospitals have a high rate 13:57:44  
11 of return for those types of products. 13:57:48  
12 And actually, just recently I saw a 13:57:52  
13 hospital that on Wednesday they said, 13:57:54  
14 You know what, we need to start 13:57:56  
15 collecting a tourniquet that is on 13:57:58  
16 manufacturer back order, but it can be 13:58:02  
17 reprocessed, so we need to start 13:58:04  
18 collecting them. That was on 13:58:06  
19 Wednesday. On Friday, the bins were in 13:58:07  
20 ORs and the collections had started. 13:58:09  
21 So that's when I mentioned that it's a 13:58:12  
22 quick and easy process. It can be a 13:58:16  
23 very quick and easy process. 13:58:18

24 Q. You referenced general 13:58:20  
25 industry collection rates in paragraph 13:58:21

1 J. SARGENT

2 56, correct? 13:58:24

3 A. Yes. 13:58:25

4 Q. What did you mean by that? 13:58:36

5 A. Similar to what I just 13:58:42

6 mentioned. We had a -- there's an 13:58:43

7 opportunity to mitigate expenses, as 13:58:46

8 well as patient safety, by starting a 13:58:51

9 collection or reprocessing of a 13:58:54

10 product. And it occurred immediately. 13:58:56

11 Q. You did not look at any 13:58:58

12 literature to identify general industry 13:59:03

13 collection rates, am I right about 13:59:09

14 that? 13:59:10

15 A. Correct. 13:59:10

16 Q. Did you look at any industry 13:59:11

17 data to understand what general 13:59:14

18 industry collection rates are? 13:59:16

19 A. No. 13:59:17

20 Q. Did you look at any studies 13:59:25

21 that have been done about general 13:59:27

22 industry collection rates? 13:59:29

23 A. No. It's based on my 13:59:35

24 experience. 13:59:36

25 Q. Did you look at any studies 13:59:36

1 J. SARGENT

2 of individual instrument collection 13:59:38

3 programs? 13:59:41

4 MR. VAN HOVEN: Objection to 13:59:43

5 form. 13:59:46

6 A. No. 13:59:46

7 Q. Did you look at any 13:59:50

8 literature about individual instrument 13:59:52

9 collection programs? 13:59:55

10 A. No. 13:59:57

11 Q. Did you talk to any Vizient 14:00:04

12 member hospitals about whether they 14:00:07

13 would take advantage of the SIS 14:00:09

14 program? 14:00:10

15 A. No. 14:00:13

16 Q. Did you talk to any Vizient 14:00:13

17 hospitals back in 2019, besides Marin, 14:00:18

18 about whether they would take advantage 14:00:21

19 of this program being offered by SIS? 14:00:23

20 A. No, I didn't have the 14:00:28

21 opportunity. 14:00:29

22 Q. Okay. So am I right that you 14:00:30

23 cannot tell me the number of hospitals 14:00:35

24 that you are assuming that SIS would be 14:00:38

25 collecting EndoWrists from; is that 14:00:42

1 J. SARGENT

2 that number is. I don't know what the 14:02:27  
3 number of Sis that are out there, and 14:02:29  
4 how many per hospital. So one hospital 14:02:33  
5 could have three and another hospital 14:02:35  
6 could have none. 14:02:36

7 Q. Does it matter to your 14:02:37  
8 opinions as to how many hospitals would 14:02:39  
9 participate in this program? 14:02:42

10 MR. VAN HOVEN: Objection to 14:02:44  
11 form. 14:02:44

12 A. I would say 70 to 80 percent 14:02:44  
13 of the hospitals that have an S or Si 14:02:52  
14 would participate. 14:02:57

15 Q. Right, but does it matter to 14:02:58  
16 your opinion whether the number of 14:03:01  
17 hospitals that participate are ten or a 14:03:02  
18 thousand? 14:03:04

19 MR. VAN HOVEN: Objection to 14:03:05  
20 form. 14:03:05

21 A. No. 14:03:05

22 Q. Do you know how many 14:03:11  
23 salespeople SIS had in 2019 involved in 14:03:17  
24 the EndoWrist service that it was 14:03:21  
25 offering? 14:03:24

1 J. SARGENT

2 A. No. 14:03:25

3 Q. And if you go to paragraph -- 14:03:42

4 am I right, I'm sorry, with respect to 14:03:47

5 paragraph 56, and the collection rate 14:03:49

6 of 75 percent, you're saying that would 14:03:51

7 be 75 percent collection from day one 14:03:54

8 of the program? 14:03:57

9 A. No. 14:04:04

10 Q. When would there be 14:04:05

11 75 percent collection rate achieved, in 14:04:07

12 your view? 14:04:11

13 A. As the program is rolled out 14:04:13

14 and the staff is aware. 14:04:16

15 Q. Did you make any assumptions 14:04:18

16 about how long the program would take 14:04:20

17 to roll out? 14:04:21

18 A. My assumption is that it 14:04:25

19 would not take long at all. 14:04:26

20 Q. Okay. How long? 14:04:29

21 A. One to two years. 14:04:32

22 Q. So for the first year, are 14:04:34

23 you offering a collection rate 14:04:38

24 percentage for the first year of the 14:04:41

25 program? 14:04:42

1 J. SARGENT

2 Q. Do you know how many 14:18:36

3 hospitals actually used the SIS service 14:18:37

4 for EndoWrists? 14:18:41

5 A. No, I don't. 14:18:44

6 Q. Do you know the name of any 14:18:45

7 besides MarinHealth that did? 14:18:48

8 A. I was told by Mr. Johnson 14:18:51

9 that he was having conversations with 14:18:53

10 Banner Health and Kaiser. To the 14:18:57

11 extent of implementation, I do not 14:19:00

12 know. 14:19:04

13 Q. Do you know how many 14:19:05

14 EndoWrists SIS actually reset before 14:19:06

15 they stopped? 14:19:10

16 A. I have no idea. 14:19:10

17 Q. You didn't see that in any of 14:19:15

18 the materials that you reviewed in this 14:19:18

19 matter? 14:19:19

20 A. Not that I recall. 14:19:20

21 MR. VAN HOVEN: Andrew, 14:19:25

22 again, obviously get through 14:19:26

23 whatever questions in your line of 14:19:28

24 questioning, but we're getting over 14:19:29

25 an hour. 14:19:31

1 J. SARGENT

2 provide similar services? 14:37:22

3 A. Yes. 14:37:24

4 Q. What year was it that you 14:37:24

5 were putting out the requests for 14:37:26

6 information for Memorial? 14:37:28

7 A. End of '20 into '21. 14:37:34

8 Q. So do you know whether Steris 14:37:43

9 or Agility offered a service to reset 14:37:51

10 EndoWrists to Vizient members? 14:37:56

11 A. I do not know, and that was 14:37:58

12 not included in the RFI. 14:37:59

13 Q. Okay. I'm saying sitting 14:38:03

14 here today, do you know whether Steris 14:38:07

15 or Agility offered that service to 14:38:10

16 Vizient members? 14:38:17

17 A. No, I do not. 14:38:17

18 Q. Do you know whether any other 14:38:18

19 company offers the service of resetting 14:38:19

20 EndoWrist to Vizient members? 14:38:26

21 A. No, I do not. 14:38:27

22 Q. Do you know whether the 14:38:29

23 service that SIS offers to Vizient 14:38:31

24 members is exclusive for Vizient 14:38:33

25 members, meaning that no other entity 14:38:35

1 J. SARGENT

2 can be used more than the times that 15:30:32

3 have been set by Intuitive and cleared 15:30:35

4 by the FDA? 15:30:37

5 MR. VAN HOVEN: Objection to 15:30:38

6 form. 15:30:38

7 A. I'm not referring to anything 15:30:38

8 specific other than my experience with 15:30:42

9 multiple manufacturers who have made 15:30:45

10 similar claims for single-use products, 15:30:47

11 even though this is a multi-use 15:30:50

12 product, for single-use products that 15:30:52

13 it can't be reprocessed, but yet is 15:30:57

14 able to be reprocessed or repaired. 15:31:00

15 Q. So you're not relying on any 15:31:01

16 data about EndoWrists themselves, 15:31:05

17 correct? 15:31:10

18 A. Correct. 15:31:10

19 Q. Do you have any experience 15:31:10

20 with collection -- I apologize, I meant 15:31:12

21 to ask you this earlier. Other than 15:31:15

22 the experience with Marin, do you have 15:31:18

23 any other experience with collection 15:31:20

24 rates at hospitals of EndoWrists for a 15:31:22

25 program involving extending the lives 15:31:27



1 J. SARGENT

2 THE VIDEOGRAPHER: We are 15:55:25

3 back on the record, the time is 15:55:27

4 3:55 p.m. Eastern time. 15:55:29

5 Q. Ms. Sargent, am I right that 15:55:33

6 you do not know what the actual 15:55:35

7 collection rate of EndoWrists were at 15:55:36

8 Marin when it was involved with SIS's 15:55:40

9 resetting service? 15:55:48

10 A. Correct. 15:55:48

11 Q. Am I right, you do not know 15:55:49

12 the collection rate of any hospital 15:55:50

13 with respect to SIS's service for 15:55:52

14 resetting EndoWrists? 15:55:55

15 A. Correct. 15:55:59

16 Q. And am I also right that 15:55:59

17 you're assuming that whatever Vizient 15:56:01

18 members sign up for resetting an 15:56:06

19 EndoWrist, that SIS would get all of 15:56:17

20 that volume, right? 15:56:20

21 A. As described, yes. 15:56:21

22 Q. No other entity would get any 15:56:22

23 volume of resetting of EndoWrists among 15:56:23

24 the Vizient members, right? 15:56:27

25 A. Unless another third party 15:56:28

1 J. SARGENT

2 came up with a similar process. Then 15:56:33

3 it would -- then SIS would be affected. 15:56:37

4 Q. But your collection rate and 15:56:41

5 conversion rate assume that SIS is the 15:56:46

6 only entity offering that service to 15:56:49

7 Vizient members, correct? 15:56:53

8 MR. VAN HOVEN: Objection to 15:56:54

9 form. 15:56:54

10 A. Yes. 15:56:54

11 Q. And those numbers would be 15:56:56

12 lower if there was another entity 15:57:00

13 offering that service to Vizient 15:57:02

14 members, correct? 15:57:06

15 MR. VAN HOVEN: Objection to 15:57:06

16 form. 15:57:08

17 A. Yes. 15:57:08

18 Q. And am I also right that the 15:57:10

19 penetration rate you've identified 15:57:15

20 applies only to Vizient members? 15:57:16

21 A. Yes. 15:57:23

22 Q. You have not done anything to 15:57:23

23 investigate whether non-Vizient members 15:57:26

24 would achieve collection rates or 15:57:28

25 penetration rates at the numbers you've 15:57:30

1 J. SARGENT

2 put in your opening report, correct? 15:57:31

3 A. Correct. 15:57:33

4 Q. Can you look, please, at your 15:57:36

5 rebuttal report, and I'm going to -- 15:57:43

6 which is DX230, and I'm going to -- 15:57:52

7 paragraph 12, which is on page 3. 15:57:55

8 A. Yes. 15:58:03

9 Q. This paragraph talks about 15:58:04

10 the example you provide of hospitals 15:58:05

11 that were reprocessing single-use 15:58:07

12 devices, correct? 15:58:09

13 A. Correct. 15:58:12

14 Q. And did any hospitals you 15:58:13

15 worked at reprocess single-use devices? 15:58:18

16 A. Yes. 15:58:23

17 Q. And did the hospitals you 15:58:26

18 work at do that in house, or did they 15:58:29

19 send them out for service to third 15:58:32

20 parties? 15:58:37

21 A. In house. 15:58:37

22 Q. Were you -- did you ever tell 15:58:38

23 any of those hospitals that they were, 15:58:40

24 these devices were only supposed to be 15:58:43

25 used once? 15:58:45